

MONTANA LEGISLATIVE HISTORY

Chapter 407 ~~2~~ 2005

Bill H _____ S 388 Original bill & history ☒ c

H. Committee on Business & Labor

S. Committee on Business, Labor, Economic Affairs

Hearing Date(s) 3-10 _____ c

Hearing Date(s) 2-16 _____ c

3-22 _____ c

2-17 _____ c

_____ c

2-18 _____ c

_____ c

_____ c

Date Out 3-22 _____ c

Date Out 2-18

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

2/15	FISCAL NOTE SIGNED		
2/15	FISCAL NOTE PRINTED		
2/18	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	9	3
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	REVISED FISCAL NOTE REQUESTED		
2/21	2ND READING PASSED ON VOICE VOTE	46	4
2/22	3RD READING PASSED	44	6
	TRANSMITTED TO HOUSE		
2/22	REVISED FISCAL NOTE RECEIVED		
2/23	REVISED FISCAL NOTE PRINTED		
3/07	REFERRED TO JUDICIARY		
3/21	HEARING		
3/30	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED AS AMENDED	18	0
3/30	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/04	2ND READING CONCURRED	94	6
4/05	3RD READING CONCURRED	94	6
	RETURNED TO SENATE WITH AMENDMENTS		
4/06	2ND READING HOUSE AMENDMENTS CONCURRED ON VOICE VOTE	50	0
4/07	3RD READING PASSED AS AMENDED BY HOUSE	49	1
4/11	SENT TO ENROLLING		
4/12	RETURNED FROM ENROLLING		
4/14	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/22	VETOED BY GOVERNOR		
4/25	VETO OVERRIDE VOTE MAIL POLL IN PROGRESS		
5/31	VETO OVERRIDE FAILED IN LEGISLATURE	75	67

SB 386 INTRODUCED BY PEASE

LC2239 DRAFTER: NISS

INCREASE PENALTY FOR WITHDRAWAL FROM MEDICAL SAVINGS ACCOUNT

1/14	FISCAL NOTE NEEDED
2/07	INTRODUCED
2/07	REFERRED TO PUBLIC HEALTH, WELFARE AND SAFETY
2/07	FISCAL NOTE REQUESTED
2/10	FISCAL NOTE RECEIVED
2/11	FISCAL NOTE SIGNED
2/11	FISCAL NOTE PRINTED
2/14	HEARING
2/15	TABLED IN COMMITTEE
4/04	MISSED DEADLINE FOR REVENUE BILL TRANSMITTAL

SB 387 INTRODUCED BY SCHMIDT

LC2119 DRAFTER: FOX

TREATMENT FACILITY FOR SECOND METHAMPHETAMINE CONVICTION

1/06	FISCAL NOTE NEEDED
2/07	INTRODUCED
2/07	REFERRED TO JUDICIARY
2/07	FISCAL NOTE REQUESTED
2/14	HEARING
2/14	FISCAL NOTE RECEIVED
2/16	FISCAL NOTE PRINTED
3/01	MISSED DEADLINE FOR GENERAL BILL TRANSMITTAL

SB 388 INTRODUCED BY KEENAN

LC1042 DRAFTER: B. CAMPBELL

RESTRICT INSURER FROM STEERING CUSTOMER TO CERTAIN AUTO REPAIR SHOPS

2/07	INTRODUCED		
2/08	REFERRED TO BUSINESS, LABOR, AND ECONOMIC AFFAIRS		
2/16	HEARING		
2/18	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	9	2
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED ON VOICE VOTE	48	2
2/22	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
3/03	REFERRED TO BUSINESS AND LABOR		
3/10	HEARING		
3/22	COMMITTEE EXECUTIVE ACTION—BILL CONCURRED AS AMENDED	12	6
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/02	2ND READING CONCURRED	96	3
4/04	3RD READING CONCURRED	96	4

SENATE BILLS

159

	RETURNED TO SENATE WITH AMENDMENTS		
4/07	2ND READING HOUSE AMENDMENTS CONCURRED ON VOICE VOTE	50	0
4/08	3RD READING PASSED AS AMENDED BY HOUSE	50	0
4/11	SENT TO ENROLLING		
4/12	RETURNED FROM ENROLLING		
4/14	SIGNED BY PRESIDENT		
4/14	SIGNED BY SPEAKER		
4/16	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
4/26	CHAPTER NUMBER ASSIGNED		
	CHAPTER NUMBER 407		
	EFFECTIVE DATE: 10/01/2005 - ALL SECTIONS		

SB 389 INTRODUCED BY JOE BALLYEAT LC2131 DRAFTER: FOX

REVISE CONSTITUTION TO LIMIT REDISTRICTING TO PLUS OR MINUS 1% DEVIATION

2/07	INTRODUCED
2/08	REFERRED TO STATE ADMINISTRATION
2/18	HEARING
2/18	TABLED IN COMMITTEE
3/01	MISSSED DEADLINE FOR GENERAL BILL TRANSMITTAL

SB 390 INTRODUCED BY JOE BALLYEAT LC1121 DRAFTER: BOHYER

CAMPAIGN REFORM — CLEAN CAMPAIGN ACT

2/07	INTRODUCED		
2/08	REFERRED TO STATE ADMINISTRATION		
2/08	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/16	FISCAL NOTE PRINTED		
2/18	HEARING		
2/21	COMMITTEE EXECUTIVE ACTION—BILL PASSED AS AMENDED	7	4
2/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/02	2ND READING PASSED	34	15
3/03	3RD READING PASSED	34	14
	TRANSMITTED TO HOUSE		
3/05	REFERRED TO STATE ADMINISTRATION		
3/30	HEARING		
4/01	TABLED IN COMMITTEE		
	DIED IN STANDING COMMITTEE		

SB 391 INTRODUCED BY JOE BALLYEAT LC0984 DRAFTER: LANE

REDUCE TERMS OF AND IMPOSE TERM LIMITS ON SUPREME COURT JUSTICES

2/07	INTRODUCED
2/08	REFERRED TO JUDICIARY
2/18	HEARING
2/21	TABLED IN COMMITTEE
3/01	MISSSED DEADLINE FOR GENERAL BILL TRANSMITTAL

SB 392 INTRODUCED BY JOE BALLYEAT LC0985 DRAFTER: LANE

REVISE SUPREME COURT JUDICIAL PAY LEVELS

11/16	FISCAL NOTE NEEDED
2/07	INTRODUCED
2/08	REFERRED TO JUDICIARY
2/08	FISCAL NOTE REQUESTED
2/14	FISCAL NOTE RECEIVED
2/16	FISCAL NOTE PRINTED
2/18	HEARING
2/21	TABLED IN COMMITTEE
3/01	MISSSED DEADLINE FOR GENERAL BILL TRANSMITTAL

SB 393 INTRODUCED BY JOE BALLYEAT LC0986 DRAFTER: LANE

PARTISAN ELECTION OF SUPREME COURT JUSTICES & CROSS-PARTY ENDORSEMENT

2/07	INTRODUCED
2/08	REFERRED TO JUDICIARY
2/09	REFERRED TO STATE ADMINISTRATION
2/18	HEARING

S BILL NO. 388

INTRODUCED BY Keenan
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT INSURANCE COMPANIES THAT HAVE DIRECT REPAIR PROGRAMS WITH AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS MAY NOT LIMIT THE NUMBER OF AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS WITH WHOM IT HAS DIRECT REPAIR PROGRAMS AS LONG AS THE AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS MEET OBJECTIVE CRITERIA; PROVIDING THAT A VIOLATION IS SUBJECT TO CEASE AND DESIST ORDERS OF THE COMMISSIONER OF INSURANCE; AND AMENDING SECTIONS 33-18-224 AND 33-18-1006, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair shops prohibited. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular automobile repair business or location; or

(b) engage in any act or practice that intimidates, coerces, or threatens an insured person or that provides an incentive or inducement for an insured person to use a particular automobile repair business or location.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile repair businesses or locations that allow insured persons to take their motor vehicles to the automobile repair businesses or locations without the involvement of adjusters, the insurance company may not limit the number of automobile repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile repair businesses or locations if the businesses or locations fail to meet the criteria established in subsection (2)(c).

(c) Upon request, the insurance company shall provide the insured person with an alphabetical list that includes all automobile repair businesses or locations that are willing to provide services and that meet the following objective criteria because the business or location:

1 (i) possesses the equipment reasonably necessary to undertake repairs;

2 (ii) undertakes reasonable training of management and technical personnel with respect to repair
3 information and the claims process;

4 (iii) agrees to perform quality repairs and utilize parts that serve to return the motor vehicle to its preloss
5 condition;

6 (iv) agrees to warrant the quality of work, including refinishing, in writing to the insured person, for a
7 period of not less than 1 year from the date of repair; and

8 (v) if requested, agrees to execute an agreement with the insurance company that may contain
9 additional objective criteria that are not designed to unfairly limit the number of automobile repair businesses
10 or locations with whom the insurance company maintains direct repair programs.

11 ~~(2) For the purposes of this section, an incentive or inducement does not include:~~

12 ~~—— (a) providing an insured person or a customer with a list of all established automobile repair businesses~~
13 ~~or locations reasonably close to the insured person or customer that offer a warranty for the automobile repair~~
14 ~~services provided by the businesses or locations;~~

15 ~~—— (b) providing an insured person or a customer with a list of particular body shops meeting reasonable~~
16 ~~standards of quality, service, and safety when the list is requested by the insured person or customer; or~~

17 ~~—— (c) referring to a warranty issued by an automobile repair business or location.~~

18 (3) The insured may use ~~a~~ an automobile repair business or location at the insured's sole discretion,
19 and the insurance company shall pay for the reasonable and necessary cost of the automobile ~~body~~ repair
20 services for covered damages, less any deductible under the terms of the policy. This section does not require
21 an insurer to pay more for automobile ~~body~~ repair services than the lowest prevailing market price, as defined
22 in 33-18-222.

23 ~~(4) If the insured person uses an automobile repair business or location not on a list provided under~~
24 ~~subsection (2)(a) or (2)(b), the insurance company may not be held liable for any repair work performed by the~~
25 ~~automobile repair business or location that the insured person chooses to use.~~

26 ~~(5)(4)~~ It is unlawful for an automobile repair business or location to charge or agree to charge an insured
27 customer more than an uninsured customer for any automobile repair service.

28 ~~(6)(5)~~ An insurance company that contracts with an independent adjuster may not be held liable for the
29 independent adjuster's failure to comply with the terms of this section.

30 ~~(7)(6)~~ For purposes of this section, "automobile repair business or location" does not include a business

1 or location that exclusively provides automobile glass replacement, glass repair services, or glass products."
2

3 **Section 2.** Section 33-18-1006, MCA, is amended to read:

4 **"33-18-1006. Desist orders for prohibited practices.** Violations of 33-18-221 through ~~33-18-223~~

5 33-18-224 are subject to cease and desist orders of the commissioner issued under 33-18-1004."
6

- END -

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on February 16, 2005 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused:

Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 439, 2/11/2005; SB 411,
2/11/2005; SB 388, 2/11/2005; SB
349, 2/11/2005; SB 412, 2/11/2005
Executive Action: SB 411, SB 192

Proponents' Testimony:

00:27:06 Mr. Myron Laible, Outdoor Advertising Association
of America

EXHIBIT(bus38a03)

00:29:29 Mr. Paul Dennehy, General Manager, Lamar Outdoor
Advertising
00:32:20 Ms. Peggy Grimes, Executive Director, Montana Food
Bank Network
00:33:29 Mr. Steve Schell, Montana Signworks
00:34:31 Mr. Joe Spieker, Spieker Sprinklers
00:35:49 Mr. Stuart Doggett, Montana Innkeepers Association

Opponents' Testimony: None.

Informational Testimony: None.

00:36:35

Questions from Committee Members and Responses:

00:38:00

Closing by Sponsor:

00:38:41

HEARING ON SB 388

Opening Statement by Sponsor:

SEN. BOB KEENAN (R), SD 5, opened the hearing on SB 388, Restrict insurer from steering customer to certain auto repair shops.

Proponents' Testimony:

00:41:39 REP. JON SONJU, HD 7, KALISPELL
00:45:52 Mr. Gene Dziza, Auto Body Shop Owner

EXHIBIT(bus38a04)

00:50:27 Mr. John Morrison, State Auditor, Insurance
Commissioner
00:55:23 Mr. Mark Pollock, Owner, Blue Ribbon Auto Body
01:01:06 Mr. Dar Riggert, Action Auto Body
01:01:58 Mr. Keith Koch, Owner, Jack's Auto Body
01:04:18 Mr. Max Yates, Yates Body Shop, President, Montana
Collision Repair Association
01:05:31 Mr. Mark Brody, Ron's Auto Refinisher's

SENATE COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

February 16, 2005

PAGE 4 of 8

01:05:55 Dusti Dziza, Auto Body Shop Owner
01:07:10 Mr. Shawn Basolo, Owner, Basolo Auto Body

Opponents' Testimony:

01:08:05 Mr. Jon Metropoulos, Farmer's Insurance Group
01:11:14 Mr. Greg Van Horssen, State Farm Insurance
 Company, and on behalf of Ms. Jacqueline Lenmark,
 American Insurance Association
01:16:37 Mr. Larry Kibbee, Property Casualty Insurers of
 America

01:19:13

Informational Testimony: None.

01:19:38

Questions from Committee Members and Responses:

Ms. Barb Van der Mars, Compliance Specialist, State Auditor's
Office

Mr. Dwight Eastman, Farmer's Insurance Company

EXHIBIT(bus38a05)

01:52:31

Closing by Sponsor:

01:53:34 Break
02:11:33 Resume

02:11:44

HEARING ON SB 349

Opening Statement by Sponsor:

SEN. VICKI COCCHIARELLA (D), SD 47, opened the hearing on SB 349,
Require insurer not designate rental company and direct pay for
rental cars.

EXHIBIT(bus38a06)

Proponents' Testimony:

02:16:20 Mr. Jay Robison, Dollar Rent-a-Car
02:20:07 Mr. Andy Wilcox, Alanon National Car Rental
02:21:08 Mr. Mike Lucero, Hertz Rental Car
02:21:30 Mr. Gene Dziza, Auto Body Shop Owner

**MONTANA SENATE
2005 LEGISLATURE**

ROLL CALL

BUSINESS AND LABOR

DATE 2/16/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN			
SEN. JOE TROPILA (D), VICE CHAIRMAN			
SEN. JOE BALLYEAT (R)			
SEN. DUANE GRIMES (R)			
SEN. DAVE LEWIS (R)			
SEN. GLENN ROUSH (D)			
SEN. FRANK SMITH (D)			
SEN. CAROLYN SQUIRES (D)			
SEN. DONALD STEINBEISSER (R)			
SEN. BILL TASH (R)	✓		
SEN. JON TESTER (D)		X	
PAT MURDO, LSD	X		
ANNIE CLOVER, COMMITTEE SECRETARY	T		

SB388

- Eliminates an insurers ability to inconvenience a consumer into going where the insurer wants them to go
- Promotes fair and open competition for business by repair shops
- Eliminates the possibility of "cronyism" influencing which repair shops participate in repair programs
- Causes repair shops to compete on the merits of their own business practices
- Gives consumers more control of the process
- State Farm has been successfully administering a direct repair program this way for years
- Insurers say they want the freedom to do business with whomever they want – but they don't own the car that is being repaired!
- Insurers say Direct Repair Programs are a useful customer service tool – wouldn't it be useful to have more providers participating? Imagine an HMO with one provider
- We have laws that require citizens to purchase insurers' products – we therefore owe it to our citizenry to regulate the industry in a way that protects our citizenry.

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 2/16/05
BILL NO. SB388

Amendments to Senate Bill No. 388
1st Reading Copy

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Bartley Campbell
February 16, 2005 (7:31am)

1. Page 1, lines 23 and 24.

Strike: "that" on line 23 through "adjusters" on line 24

2. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

3. Page 1, line 28.

Following: "provide"

Insert: ", without prejudice or bias,"

4. Page 2, line 4 through line 5.

Strike: "and" on line 4 through "condition" on line 5

Insert: "to industry standards"

- END -

**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

BUSINESS AND LABOR

DATE _____ **BILLS BEING HEARD TODAY** _____
SB 349 , SB 411 , SB 412

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
CURT BELTS	549-6172	MISSOULA RURAL FIRE	439	X	
Peter Giardino	549-6172	Missoula Rural Fire	439	X	
TOM EBZERY	441-7531	LAMAR	411	X	
DARR RIVINGTON	728-9220	MISSOULA	SB388	X	
DOUG NEIL	899-0246	GT. FALLS	439	X	
Kurt Bushnell	584-6520	MONTANA STATE FIREMEN'S ASSN	439	X	
Stuart Pesselt	439-5490	MT Inn/Loggers	411	X	
Magulise Plamark	2-0230	AIA	412	XXX	
John W. Smith	723-6493	Idaho with Van Fair	412	X	
Brander Moss	444-8760				
Charles Val	206-7143491	IUEC Local 19	412	X	
Johns Martin	509-9549800	Kore Electr G	412	X	
Gregg Rogers	515-993-4102	EIWP	412	X	
Barney N. Driver	406-837-3666	IUEC Local 19	412	X	
John Cota	406-442-0088	Retired	412	X	
Bill Beam	406-287-5212	Retired	412	X	
Frank Egan	406				
Brad Griffin		MT Restaurant Assn	411	X	
Gregg Harrison	2-0230	State Fern	5388		X
		"	5349		X
Jackie Lemmle	2-9230	AIA	5349, 388		X

Jon Metropoulos 442-8560 FIG 388 X
 Doug Egan 240-5010 FIG 388 X
 Doug Egan 240-5010 FIG 349 X

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

**MONTANA STATE SENATE
2005 LEGISLATURE**

VISITOR REGISTER

BUSINESS AND LABOR

DATE _____ BILLS BEING HEARD TODAY SB 412 SB 439
SB 349

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jim Kember	439-6791	AIA Montana	SB412	X	
Gene Dziza	752-4885		SB388	X	
Mark Pollock	543-4612		SB388	X	
Darla Pollock	543-4612	montana	SB388	X	
Dusty Dziza	756-6841		SB388	X	
John Semple	443-7487	MT Fire Alliance	SB439	X	
Peggy Grimes	721-3825	MT FOOD BANK NETWORK	SB411	X	
MYRON LAIBLE	202-776-1844	MT - LAMAR / OAAA	SB411	X	
STEVE SCHELL	406-799-0659	MT - MONTANA SIGNWORKS	SB411	X	
Paul Denny	406-252-7181	LAMAR	SB411	X	
Brett M. Waters	388-4480	MT. Fire Alliance	SB439	X	
Pat Clinch	431-6640	MSC PFA	SB439	X	
BOB FRY	686-4749	PARK CO RFD1	439	X	
Dennis Martin	504-954-9800	Comp. Reuter Co	412	X	
ROGER HAGAN	459-0773	G.T. FALLS AIRPORT FIREFIGHTERS	SB439	X	
Max Yates	494-8076	MCRS	SB388	X	
Riley Johnson	443-3797	Enterprise Rent A Car	SB349		
Robert Ward	443-6025	Enterprise Rent A Car	SB349		
KEITH KOCY	406-721-5183	JAX AUTO BODY	SB388	X	
Shawn Basolo	406-721-7700	BASOLO AUTO BODY	SB388	X	
MARK BRODIE	406-549-2346	ROD'S AUTO REFINISHERS	SB388	X	
NAME UNKNOWN	406-388-6939	Hertz Rent A Car	SB349	X	

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Mark Feltz 406-442-4588 Hertz Rent A SB349 X

VISITOR REGISTER

DATE 2-16-05 **BILLS BEING HEARD TODAY**

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on February 17, 2005 at 7:30 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused:

Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 481, 2/14/2005; SB 12,
2/14/2005; SB 466, 2/14/2005; SB
434, 2/14/2005; SB 444, 2/14/2005
Executive Action: SB 412, SB 439, SB 388, SB 466, SB
434, SB 349, SB 12

00:11:52

EXECUTIVE ACTION ON SB 388

Motion: SEN. TROPILA moved that SB 388 DO PASS.

Discussion:

Motion: SEN. GRIMES moved that SB 388 BE AMENDED WITH SB038801.APM 2,4,5.

Discussion:

EXHIBIT(bus39a03)

Vote: Motion carried unanimously by voice vote.

Motion: SEN. LEWIS moved that SB 388 BE AMENDED WITH SB038801.APM 1,3.

Discussion:

Vote: Motion carried unanimously by voice vote.

Motion: SEN. ROUSH moved that SB 388 BE AMENDED WITH SB038802.APM.

EXHIBIT(bus39a04)

Vote: Motion carried 9-2 by voice vote with SEN. BALYEAT and SEN. GRIMES voting no.

Motion: SEN. TROPILA moved SB 388 BE AMENDED WITH SB038803.APM.

Discussion:

EXHIBIT(bus39a05)

Vote: Motion carried unanimously by voice vote.

Motion: SEN. TROPILA moved that SB 388 DO PASS AS AMENDED.

Discussion:

Vote: Motion carried 9-2 by voice vote with SEN. BALYEAT and SEN. STEINBEISSER voting no.

SEN. COCCHIARELLA proxied for SEN. TESTER.

SEN. LEWIS proxied for SEN. BALYEAT.

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

BUSINESS AND LABOR

DATE 2/17/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN			
SEN. JOE TROPILA (D), VICE CHAIRMAN			
SEN. JOE BALLYEAT (R)			
SEN. DUANE GRIMES (R)			
SEN. DAVE LEWIS (R)			
SEN. GLENN ROUSH (D)			
SEN. FRANK SMITH (D)			
SEN. CAROLYN SQUIRES (D)			
SEN. DONALD STEINBEISSER (R)			
SEN. BILL TASH (R)	✓		
SEN. JON TESTER (D)		✓	
PAT MURDO, LSD	✓		
ANNIE GLOVER, COMMITTEE SECRETARY	✓		

Amendments to Senate Bill No. 388
1st Reading Copy

Requested by Senator Bob Keenan

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
February 16, 2005 (5:38pm)

1. Page 1, line 22.

Strike: "Except" through "if"

Insert: "If"

2. Page 1, lines 23 through 24.

Strike: "that" on line 23 through "adjusters" on line 24

3. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

4. Page 1, line 28.

Following: "provide"

Insert: ", without prejudice or bias,"

5. Page 2, line 4 through line 5.

Strike: "and" on line 4 through "condition" on line 5

Insert: "that meet industry standards"

- END -

Amendments to Senate Bill No. 388
1st Reading Copy

Requested by Senator Glenn Roush

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
February 16, 2005 (5:37pm)

1. Title, page 1, line 8.

Following: "CRITERIA;"

Insert: "REQUIRING NOTIFICATION REGARDING COVERAGE OF REPLACEMENT PARTS;"

2. Page 2, line 18.

Following: "(3)"

Insert: "(a)"

3. Page 2.

Following: line 22

Insert: "(b) An insurance company shall include in the terms of the insured's policy a reference as to whether the insurance company will provide compensation for original equipment manufacturer parts."

- END -

20

SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 5

DATE 2/17/05

BILL NO. SB 388

Amendments to Senate Bill No. 388
1st Reading Copy

Requested by Senator Joseph (Joe) Tropila

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
February 16, 2005 (5:37pm)

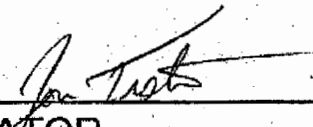
1. Page 2, line 1.
Strike: "reasonably"

2. Page 2, line 2.
Strike: "reasonable"

- END -

PROXY VOTE

I, the undersigned, hereby authorize Senator Cocchiarella to
vote my proxy on any issue before the Senate Business, Labor & Economic Affairs
Committee held on Feb. 17, 2005.



SENATOR
STATE OF MONTANA

SB. 388

PROXY VOTE

I, the undersigned, hereby authorize Senator Bolyard to

vote my proxy on any issue before the Senate B+C

Committee held on 2/17/05, 2005.

Daniel Lewis

SENATOR

STATE OF MONTANA



SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 2

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that Senate Bill 388 (first reading copy -- white) do pass as amended.

Signed:

Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

And, that such amendments read:

1. Page 1, line 22.

Strike: "Except" through "if"

Insert: "If"

2. Page 1, lines 23 through 24.

Strike: "that" on line 23 through "adjusters" on line 24

3. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Renumber: subsequent subsection

4. Page 1, line 28.

Following: "provide"

Insert: ", without prejudice or bias, "

5. Page 2, line 1.

Strike: "reasonably"

6. Page 2, line 2.

Strike: "reasonable"

7. Page 2, line 4 through line 5.

Committee Vote:

Yes 9, No 2.

401233SC.ssc

KF
2

February 18, 2005

Page 2 of 2

Strike: "and" on line 4 through "condition" on line 5

Insert: "that meet industry standards"

- END -

401233SC.ssc

25

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: By **CHAIRMAN VICKI COCCHIARELLA**, on February 18, 2005 at 8:00 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Vicki Cocchiarella, Chairman (D)
Sen. Joe Balyeat (R)
Sen. Duane Grimes (R)
Sen. Dave Lewis (R)
Sen. Glenn Roush (D)
Sen. Frank Smith (D)
Sen. Carolyn Squires (D)
Sen. Donald J. Steinbeisser (R)
Sen. Bill Tash (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused:

Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Annie Glover, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 424, 2/15/2005; SB 425,
2/15/2005; SB 451, 2/15/2005; SB
454, 2/15/2005; SB 457, 2/15/2005;
SB 443, 2/15/2005
Executive Action: SB 443, SB 454, SB 451, SB 424, SB
425, SB 388, SB 114, SB 380, SB
481, SB 311

02:43:02

EXECUTIVE ACTION ON SB 424

Motion/Vote: SEN. LEWIS moved that SB 424 BE TABLED. Motion carried unanimously by voice vote.

SEN. COCCHIARELLA proxied for SEN. TESTER.

SEN. LEWIS proxied for SEN. BALLYEAT.

02:43:48

EXECUTIVE ACTION ON SB 425

Motion/Vote: SEN. LEWIS moved that SB 425 BE TABLED. Motion carried unanimously by voice vote.

SEN. COCCHIARELLA proxied for SEN. TESTER.

SEN. LEWIS proxied for SEN. BALLYEAT.

02:44:40

EXECUTIVE ACTION ON SB 388

Motion: SEN. TROPILA moved RECONSIDER THE MOTION on SB 388.

EXHIBIT(bus40a13)

Vote: Motion carried unanimously by voice vote.

Motion: SEN. ROUSH moved that SB 388 DO PASS.

Motion: SEN. ROUSH moved that SB 388 BE AMENDED WITH SB038805.APM.

Discussion:

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. ROUSH moved that SB 388 DO PASS AS AMENDED. Motion carried 9-2 by voice vote with SEN. BALLYEAT and SEN. STEINBEISSER voting no.

SEN. COCCHIARELLA proxied for SEN. TESTER.

SEN. LEWIS proxied for SEN. BALLYEAT.

02:48:54

EXECUTIVE ACTION ON SB 114

Motion: SEN. ROUSH moved that SB 114 DO PASS.

Discussion:

**MONTANA SENATE
2005 LEGISLATURE**

ROLL CALL

BUSINESS AND LABOR

DATE 2/18/05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. VICKI COCCHIARELLA (D), CHAIRWOMAN	X		
SEN. JOE TROPILA (D), VICE CHAIRMAN	X		
SEN. JOE BALLYEAT (R)	X		
SEN. DUANE GRIMES (R)	X		
SEN. DAVE LEWIS (R)	X		
SEN. GLENN ROUSH (D)	X		
SEN. FRANK SMITH (D)	X		
SEN. CAROLYN SQUIRES (D)	X		
SEN. DONALD STEINBEISSER (R)	X		
SEN. BILL TASH (R)	X		
SEN. JON TESTER (D)			X
PAT MURDO, LSD	X		
ANNIE GLOVER, COMMITTEE SECRETARY	X		

Amendments to Senate Bill No. 388
1st Reading Copy

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
February 18, 2005 (7:25am)

1. Page 1, line 22.

Strike: "Except" through "if"

Insert: "If"

2. Page 1, lines 23 through 24.

Strike: "that" on line 23 through "adjusters" on line 24

3. Page 1, line 26 through line 27.

Strike: subsection (b) in its entirety

Re-number: subsequent subsection

4. Page 1, line 28.

Following: "provide"

Insert: ", without prejudice or bias,"

5. Page 2, line 1.

Strike: "reasonably"

6. Page 2, line 2.

Strike: "reasonable"

7. Page 2, line 4 through line 5.

Strike: "and" on line 4 through "condition" on line 5

Insert: "that meet industry standards"

- END -

PROXY VOTE

I, the undersigned, hereby authorize Senator Cocchiarella to
vote my proxy on any issue before the Senate Business, Labor, & Economic Affairs
Committee held on Feb. 18, 2005.

L. Tots
SENATOR
STATE OF MONTANA



SENATE STANDING COMMITTEE REPORT

February 18, 2005

Page 1 of 2

Mr. President:

We, your committee on **Business, Labor, and Economic Affairs** recommend that Senate Bill 388 (first reading copy -- white) do pass as amended.

Signed:

Vicki Cocchiarella
Senator Vicki Cocchiarella, Chair

And, that such amendments read:

1. Page 1, line 22.

Strike: "Except" through "if"

Insert: "If"

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Strike: "that" on line 23 through "adjusters" on line 24

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Renumber: subsequent subsection

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Following: "provide"

Insert: ", without prejudice or bias,"

5. Page 2, line 1.

Strike: "reasonably"

6. Page 2, line 2.

Strike: "reasonable"

7. Page 2, line 4 through line 5.

Committee Vote:

Yes 9, No 2.

401233SC.ssc

Strike: "and" on line 4 through "condition" on line 5

Insert: "that meet industry standards"

- END -

SENATE BILL NO. 388

INTRODUCED BY KEENAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT INSURANCE COMPANIES THAT HAVE DIRECT REPAIR PROGRAMS WITH AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS MAY NOT LIMIT THE NUMBER OF AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS WITH WHOM IT HAS DIRECT REPAIR PROGRAMS AS LONG AS THE AUTOMOBILE REPAIR BUSINESSES OR LOCATIONS MEET OBJECTIVE CRITERIA; PROVIDING THAT A VIOLATION IS SUBJECT TO CEASE AND DESIST ORDERS OF THE COMMISSIONER OF INSURANCE; AND AMENDING SECTIONS 33-18-224 AND 33-18-1006, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair shops prohibited. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular automobile repair business or location; or

(b) engage in any act or practice that intimidates, coerces, or threatens an insured person or that provides an incentive or inducement for an insured person to use a particular automobile repair business or location.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile repair businesses or locations that allow insured persons to take their motor vehicles to the automobile repair businesses or locations without the involvement of adjusters, the insurance company may not limit the number of automobile repair businesses or locations with whom it maintains direct repair programs.

~~(b) An insurance company may limit the number of automobile repair businesses or locations if the businesses or locations fail to meet the criteria established in subsection (2)(c).~~

(c)(b) Upon request, the insurance company shall provide, WITHOUT PREJUDICE OR BIAS, the insured person with an alphabetical list that includes all automobile repair businesses or locations that are willing to provide services and that meet the following objective criteria because the business or location:

1 (i) possesses the equipment ~~reasonably~~ necessary to undertake repairs;
2 (ii) undertakes ~~reasonable~~ training of management and technical personnel with respect to repair
3 information and the claims process;
4 (iii) agrees to perform quality repairs and utilize parts that serve to return the motor vehicle to its preloss
5 condition THAT MEET INDUSTRY STANDARDS;

6 (iv) agrees to warrant the quality of work, including refinishing, in writing to the insured person, for a
7 period of not less than 1 year from the date of repair; and

8 (v) if requested, agrees to execute an agreement with the insurance company that may contain
9 additional objective criteria that are not designed to unfairly limit the number of automobile repair businesses
10 or locations with whom the insurance company maintains direct repair programs.

11 (2) For the purposes of this section, an incentive or inducement does not include:

12 ~~—— (a) providing an insured person or a customer with a list of all established automobile repair businesses~~
13 ~~or locations reasonably close to the insured person or customer that offer a warranty for the automobile repair~~
14 ~~services provided by the businesses or locations;~~

15 ~~—— (b) providing an insured person or a customer with a list of particular body shops meeting reasonable~~
16 ~~standards of quality, service, and safety when the list is requested by the insured person or customer; or~~

17 ~~—— (c) referring to a warranty issued by an automobile repair business or location.~~

18 (3) The insured may use ~~a~~ an automobile repair business or location at the insured's sole discretion,
19 and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair
20 services for covered damages, less any deductible under the terms of the policy. This section does not require
21 an insurer to pay more for automobile body repair services than the lowest prevailing market price, as defined
22 in 33-18-222.

23 ~~(4) If the insured person uses an automobile repair business or location not on a list provided under~~
24 ~~subsection (2)(a) or (2)(b), the insurance company may not be held liable for any repair work performed by the~~
25 ~~automobile repair business or location that the insured person chooses to use.~~

26 ~~(5)~~(4) It is unlawful for an automobile repair business or location to charge or agree to charge an insured
27 customer more than an uninsured customer for any automobile repair service.

28 ~~(6)~~(5) An insurance company that contracts with an independent adjuster may not be held liable for the
29 independent adjuster's failure to comply with the terms of this section.

30 ~~(7)~~(6) For purposes of this section, "automobile repair business or location" does not include a business

1 or location that exclusively provides automobile glass replacement, glass repair services, or glass products."

2

3 **Section 2.** Section 33-18-1006, MCA, is amended to read:

4 **"33-18-1006. Desist orders for prohibited practices.** Violations of 33-18-221 through ~~33-18-223~~
5 33-18-224 are subject to cease and desist orders of the commissioner issued under 33-18-1004."

6

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JIM KEANE**, on March 10, 2005 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Jim Keane, Chairman (D)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Tim Dowell (D)
Rep. Kevin T. Furey (D)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Dan Villa (D)
Rep. Jonathan Windy Boy (D)

Members Excused:

Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 388, 3/7/2005; SB 108, 3/7/2005;
SB 217, 3/7/2005; SB 454, 3/7/2005
Executive Action: HB 654

HEARING ON SB 388

Opening Statement by Sponsor:

SEN. BOB KEENAN (R), SD 5, opened the hearing on **SB 388**, Restrict insurer from steering customer to certain auto repair shops.
00:02:19

Proponents' Testimony:

00:05:19 John Morrison, State Auditor
00:09:27 **REP. JON SONJU, HD 7, KALISPELL**
00:14:59 Gene Dziza, Auto Body Shop Owner

EXHIBIT(buh53a01)

00:22:21 Mark Pollock, Auto Body Shop Owner
00:25:11 Darr Riggert, Auto Body Shop Owner
00:27:27 Dusty Dziza, Collision Craft

EXHIBIT(buh53a02)

00:28:12 Max Yates, Montana Collision Repair Specialist
00:28:30 Dan Shewalter, Whitefish Auto Body
00:28:51 Shawn Basolo, Body Shop Owner

Opponents' Testimony:

00:29:14 Greg Van Horssen, State Farm Insurance
00:35:24 Lloyd Taylor, Great Falls Collision Repair

EXHIBIT(buh53a03)

00:39:48 Dwight Easton, Farmers Insurance Company
00:42:05 Larry Kibbee, Property Casualty Insurance

Informational Testimony: None

Questions from Committee Members and Responses:

00:44:44

Closing by Sponsor:

01:25:34

REPS. HEINERT AND GALLIK entered the room.

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 3-10-05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JIM KEANE, CHAIR.	✓		
REP. KATHLEEN GALVIN-HALCRO, VICE CHAIR	✓		
REP. JOE McKENNEY, VICE CHAIR	✓		
REP. ELSIE ARNTZEN	✓		
REP. BOB BERGREN	✓		
REP. TIM DOWELL	✓		
REP. KEVIN FUREY	✓		
REP. DAVE GALLIK			✓
REP. RALPH HEINERT			✓
REP. LLEW JONES	✓		
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK	✓		
REP. SCOTT MENDENHALL	✓		
REP. MIKE MILBURN	✓		
REP. DON ROBERTS	✓		
REP. WAYNE STAHL	✓		
REP. DAN VILLA	✓		
REP. JONATHAN WINDY BOY	✓		

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CONTACT:

Michael Greywitt (West Coast)
(805) 418-8000
John Tews (East Coast)
(248) 267-6800

**J.D. Power and Associates Reports:
Consumers Filing an Insurance Claim
Want a Voice in Selecting the Body Shop That Repairs Their Vehicle**

FOR IMMEDIATE RELEASE: December 20, 2004

WESTLAKE VILLAGE, Calif.—Consumers who perceive they had a choice in the body shop selection process when they had collision repair or body work completed on their vehicle were more satisfied than those who felt compelled to use a particular body shop by their insurance carrier, according to the J.D. Power and Associates 2004 Collision Repair Satisfaction StudySM released today. The study measures customer satisfaction with insurance carriers when claims are filed.

Consumers who initially had a collision repair shop in mind before contacting their insurance carrier, and subsequently learned their preferred repair shop was also on the carrier's preferred list, were the most delighted with the collision repair process. In contrast, consumers who weren't presented a list of body shops to choose from were significantly less pleased with their overall collision repair experience.

"Collision damage claimants are clearly much happier when they feel involved in the body shop selection process," said Jeremy Bowler, senior director of the finance and insurance practice at J.D. Power and Associates. "A car accident can be a very traumatic experience for a vehicle owner. Customers calling to file a collision claim tend to be much more sensitive to the service they receive from their insurer than they are when contacting the insurer for other services, making this one of the most critical moments in the long-term customer relationship."

Nearly 80 percent of consumers who had collision repair or body work completed on their vehicle believed the body shop that repaired their vehicle was approved or affiliated with the insurer handling their claim. Consumers who took their vehicle to a direct repair provider—a body shop selected or recommended by their insurance provider—were more satisfied than those who used a body shop without a referral or recommendation. However, among consumers who used a direct repair body shop, those who felt strongly encouraged to go with the insurer's recommendation were significantly less satisfied.

"With so many of the national insurers entrusting a significant number of their claimants to their networks of preferred or 'direct' repair providers, carriers have become increasingly dependent on these shops to play a significant role in managing customer expectations throughout the process," Bowler said. "As a result, consumers are more inclined to associate a good or bad body shop experience with the carrier. Since the claims experience is such an important one in shaping customers' faith in their provider, the service a carrier's direct repair shop delivers can have a profound impact on their likelihood to renew their policies. Other factors, such as the rental car agency and the towing operation, also have an impact on customer satisfaction during the collision repair process."

The study also finds that consumers want to know whether the body shop used factory-authorized parts or after-market parts to repair their vehicle. Although some insurance carriers make it a policy to use only factory-authorized parts, they often fail to tell this to the customer. More than one-third of respondents indicated they were not told during their repair experience which type of parts were being used, resulting in significantly lower levels of overall satisfaction.

Erie Insurance ranks highest in collision repair customer satisfaction, performing particularly well in the areas of claim policies and procedures and claims representatives. Auto Club Group of Michigan, Liberty Mutual, GEICO and State Farm follow Erie in the rankings, respectively. USAA, an insurance provider open only to the U.S. military community and their families and therefore not included in the rankings, achieves a satisfaction score higher than Erie Insurance.

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The study also finds that consumers want to know whether the body shop used factory-authorized parts or after-market parts to repair their vehicle. Although some insurance carriers make it a policy to use only factory-authorized parts, they often fail to tell this to the customer. More than one-third of respondents indicated they were not told during their repair experience which type of parts were being used, resulting in significantly lower levels of overall satisfaction.

Erie Insurance ranks highest in collision repair customer satisfaction, performing particularly well in the areas of claim policies and procedures and claims representatives. Auto Club Group of Michigan, Liberty Mutual, GEICO and State Farm follow Erie in the rankings, respectively. USAA, an insurance provider open only to the U.S. military community and their families and therefore not included in the rankings, achieves a satisfaction score higher than Erie Insurance.



EXHIBIT 3
DATE 3.10.05
SB 388

March-10-05

To: Members of the Business and Labor Committee
Montana House of Representatives

Subject: SB 388

Premise: There are certain benefits that a national collision repair company can bring to the independent collision repair facility that are attractive to consumers, insurers, and to the independent shop owners. Therefore it is in the best interest of the state of Montana to preserve the relationship between insurance companies and national collision repair companies or franchisors in order to attract the services provided for the benefit of the citizens of the state of Montana.

Benefits a Franchisee of a National Collision Repair Company.

- ◆ National training programs to provide consistent quality work product and program compliance;
- ◆ National standards of service, quality, and technology;
- ◆ National warranty programs (Five year Nationwide) to provide customer service in the event a customer relocates and requires assistance with a warranty issue; and
- ◆ Single point of contact (1 800 CARSTAR) in order to better service customers.
- ◆ Franchisor required HAZMAT and OSHA regulatory compliance programs.
- ◆ Fourteen-year history of CSI, customer satisfaction Index, standards and tracking.
- ◆ National vendor relationships to reduce the cost of materials and equipment through volume purchasing.
- ◆ Single point (Franchisor) assistance on HR, Legal, and Insurance issues.

Based on these benefits, national collision repair companies or franchisors are attractive to insurance companies in order to pass the benefits and to increase customer satisfaction. Therefore, insurance companies enter into relationship agreements with national collision repair companies or franchisors in order to provide these benefits that an individual shop owner cannot provide and such benefits should not be considered unfair. It is in the best interest of the citizens of the state of Montana to not preclude national relationships pursuant to 33-18-224(v) but instead acknowledge that insurance companies may have national or regional relationships with a national collision repair company that will not be a violation of SB 388 in order to continue to attract and give national services at the local level for the consumers of Montana.

Lloyd Taylor

Owner, Procraft Carstar

Procraft CARSTAR
917 Central Avenue
Great Falls, MT 59401
406.727.9320 PH 406.452.5242 FAX



VISITORS REGISTER

Montana

House of Representatives

Business & Labor Committee

Bill Number: SB 388

Date: 3/16/05

Please print ~ Please print ~ Please print ~ Please print

Name	Representing	Support	Oppose	Informational
Gene Diza	myself	X		
Lloyd TAYLOR	AIRCRAFT CARESTAR		X	
MARK NOLLOCK	Blue Ribbon	X		
DARR RIGBERT	ACTION AUTO BODY	X		
Dan Shewalter	DON K chev	X		
Max Yates	MCRS	X		
Shawn Busch	Busch Auto Body	X		
Dusty Diza	Collision Craft	X		
Oleg V. Horsten	State Farm		X AMEND	
Jackie Lemack	N/A		X AMEND	
Daryl Barton	Farmers Ins		X Amend	

Please leave prepared testimony with Committee Secretary. Witness
Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JIM KEANE**, on March 22, 2005 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Jim Keane, Chairman (D)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Joe McKenney, Vice Chairman (R)
Rep. Elsie Arntzen (R)
Rep. Bob Bergren (D)
Rep. Tim Dowell (D)
Rep. Kevin T. Furey (D)
Rep. Dave Gallik (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Harry Klock (R)
Rep. Scott Mendenhall (R)
Rep. Mike Milburn (R)
Rep. Don Roberts (R)
Rep. Wayne Stahl (R)
Rep. Dan Villa (D)

Members Excused:

Rep. Jonathan Windy Boy (D)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Kyanne Kelly, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 664, 3/16/2005; HB 772,
3/16/2005; HB 373, 3/16/2005; SB
401, 3/16/2005
Executive Action: SB 401, SB 373, SB 137, HB 679, SB
265, SB 325, SB 383, SB 388

HEARING ON SB 373

Opening Statement by Sponsor:

SEN. JEFF ESSMANN (R), SD 28, opened the hearing on **SB 373**,
Revise laws for professional employer organizations and groups.
00:02:44

Proponents' Testimony:

00:07:32 Jerry Keck, Department of Labor and Industry
00:08:44 Don Reile, Better Business Systems
00:09:38 Nancy Butler, Montana State Fund

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:10:19

HEARING ON SB 401

Opening Statement by Sponsor:

SEN. JESSE LASLOVICH (D), SD 43, opened the hearing on **SB 401**,
Revise Uniform Commercial Code.
00:11:07

Proponents' Testimony:

00:19:34 Steve Turkiewicz, Montana Bankers Association
00:20:36 Joe Mazurek, Commissioners of Uniform State Laws

EXHIBIT(buh63a01)

Opponents' Testimony: None

Informational Testimony: None

Vote: Motion failed 9-9 by roll call vote with REP. BERGREN, REP. DOWELL, REP. FUREY, REP. GALLIK, REP. GALVIN-HALCRO, REP. JOPEK, REP. KEANE, REP. VILLA, and REP. WINDY BOY voting aye.

EXECUTIVE ACTION ON SB 388

Motion: REP. JOPEK moved that SB 388 BE CONCURRED IN.

Motion: REP. JOPEK moved that SB 388 BE AMENDED.

Discussion:

02:00:34

EXHIBIT(buh63a06)

Vote: Motion carried 16-2 by voice vote with REP. BERGREN and REP. GALLIK voting no.

Motion: REP. JOPEK moved that SB 388 BE CONCURRED IN AS AMENDED.

Discussion:

02:08:53

Vote: Motion carried 12-6 by roll call vote with REP. HEINERT, REP. KLOCK, REP. MCKENNEY, REP. MILBURN, REP. ROBERTS, and REP. VILLA voting no. REP. SONJU to carry.

HEARING ON HB 772

Opening Statement by Sponsor:

REP. TOM FACEY (D), HD 95, opened the hearing on HB 772, Pay travel expenses for catastrophically injured workers.

02:49:28

Proponents' Testimony:

02:52:33 Jerry Driscoll, AFL-CIO

Opponents' Testimony: None

Informational Testimony:

02:54:22 Jerry Keck, Department of Labor and Industry

02:54:40 Nancy Butler, Montana State Fund

Questions from Committee Members and Responses:

02:56:30

HOUSE OF REPRESENTATIVES

Roll Call Vote

BUSINESS AND LABOR COMMITTEE

DATE 3.22.05 BILL NO. 50388 MOTION NO. _____

MOTION: _____

BE concurred in AS AMENDED

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. KATHLEEN GALVIN-HALCRO, VICE CHAIR	✓		
REP. JOE MCKENNEY, VICE CHAIR		✓	
REP. ELSIE ARNTZEN	✓		
REP. BOB BERGREN	✓		
REP. TIM DOWELL	✓		
REP. KEVIN FUREY	✓		
REP. DAVE GALLIK	✓		
REP. RALPH HEINERT		✓	
REP. LLEW JONES	✓		
REP. MIKE JOPEK	✓		
REP. HARRY KLOCK		✓	
REP. SCOTT MENDENHALL	✓		
REP. MIKE MILBURN		✓	
REP. DON ROBERTS		✓	
REP. WAYNE STAHL	✓		
REP. DAN VILLA		✓	
REP. JONATHAN WINDY BOY	✓		
REP. JIM KEANE, CHAIR	✓		

12

6

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44

EXHIBIT 6
DATE 3.22.05
SB 388

Amendments to Senate Bill No. 388
3rd Reading Copy

For the House Business and Labor Committee

Prepared by Bartley Campbell
March 22, 2005 (7:13am)

1. Title, line 5.
Following: "AUTOMOBILE"
Insert: "BODY"
2. Title, line 6.
Following: "AUTOMOBILE"
Insert: "BODY"
Strike: "IT HAS"
Insert: "THEY HAVE"
3. Title, line 7.
Following: "AUTOMOBILE"
Insert: "BODY"
4. Title, line 8.
Strike: "OBJECTIVE"
Insert: "CERTAIN"
5. Page 1, line 14.
Following: "body"
Insert: "body"
Strike: "shops"
Insert: "businesses"
6. Page 1, line 17.
Following: "automobile"
Insert: "body"
7. Page 1, line 20.
Following: "automobile"
Insert: "body"
8. Page 1, line 22.
Strike: "IF"
Insert: "Except as provided in subsection (2)(b), if"

9. Page 1, line 23.

Following: "automobile"

Insert: "body"

10. Page 1, line 25.

Following: "automobile"

Insert: "body"

11. Page 1, following line 27.

Insert: "(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location."

Renumber: subsequent subsection

12. Page 1, line 29.

Strike: "an alphabetical"

Insert: "a"

Following: "automobile"

Insert: "body"

Following: "are"

Insert: "reasonably close or convenient to the insured person and"

13. Page 1, line 30.

Strike: "following objective criteria because"

Insert: "insurance company's criteria regarding whether"

Following: "because the"

Insert: "automobile body repair"

14. Page 2, line 4.

Following: "repairs"

Insert: "at the prevailing competitive market price and"

15. Page 2, line 5.

Following: "MEET"

Insert: "reasonable"
Following: "INDUSTRY"
Insert: "repair"

16. Page 2, line 7.
Strike: "and"

17. Page 2, following line 7.
Insert: "(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and"
Renumber: subsequent subsection

18. Page 2, line 9.
Strike: "objective"
Following: "automobile"
Insert: "body"

19. Page 2, line 10.
Following: "."
Insert: "The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the insured person."
(d) If the insured person requests the list provided for in subsection (2)(c), the insurance company shall inform the insured person that the insured person may use an automobile body repair business or location at the sole discretion of the insured person.
(3) For the purposes of this section, an incentive or inducement does not include:
(a) providing an insured person with the list provided for in subsection (2)(c); or
(b) referring to a warranty issued by an automobile body repair business or location."
Renumber: subsequent subsections

20. Page 2, line 18.

Following: "automobile"
Insert: "body"

21. Page 2, line 19.
Following: "body"
Insert: "body"

22. Page 2, line 21.
Following: "body"
Insert: "body"

23. Page 2, line following 25.
Insert: "(4) If the insured person uses an automobile body
repair business or location that is not on a list provided
by under subsection (2)(c), the insurance company may not be
held liable for any repair work performed by the automobile
body repair business or location chosen by the insured
person."
Renumber: subsequent subsections

24. Page 2, line 26.
Following: "automobile"
Insert: "body"

25. Page 2, line 27.
Following: "automobile"
Insert: "body"

26. Page 2, line 30.
Following: "automobile"
Insert: "body"

- END -



HOUSE STANDING COMMITTEE REPORT

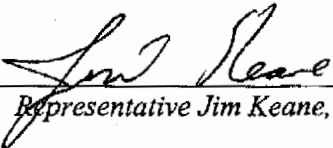
March 22, 2005

Page 1 of 5

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **Senate Bill 388** (second house second reading copy -- tan) be concurred in as amended.

Signed:


Representative Jim Keane, Chair

To be carried by Representative Jon Sonju

And, that such amendments read:

1. Title, line 5.
Following: "AUTOMOBILE"
Insert: "BODY"

2. Title, line 6.
Following: "AUTOMOBILE"
Insert: "BODY"
Strike: "IT HAS"
Insert: "THEY HAVE"

3. Title, line 7.
Following: "AUTOMOBILE"
Insert: "BODY"

4. Title, line 8.
Strike: "OBJECTIVE"
Insert: "CERTAIN"

5. Page 1, line 14.
Following: "body"
Insert: "body"
Strike: "shops"

Committee Vote:

Yes 12, No 6.

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3/22/05
jhu

51

SENATE BILL NO. 388

INTRODUCED BY KEENAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT INSURANCE COMPANIES THAT HAVE DIRECT REPAIR PROGRAMS WITH AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS MAY NOT LIMIT THE NUMBER OF AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS WITH WHOM ~~IT HAS~~ THEY HAVE DIRECT REPAIR PROGRAMS AS LONG AS THE AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS MEET ~~OBJECTIVE~~ CERTAIN CRITERIA; PROVIDING THAT A VIOLATION IS SUBJECT TO CEASE AND DESIST ORDERS OF THE COMMISSIONER OF INSURANCE; AND AMENDING SECTIONS 33-18-224 AND 33-18-1006, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile ~~body~~ BODY repair shops BUSINESSES prohibited.

(1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular automobile BODY repair business or location; or

(b) engage in any act or practice that intimidates, coerces, or threatens an insured person or that provides an incentive or inducement for an insured person to use a particular automobile BODY repair business or location.

~~(2) (a) Except as provided in subsection (2)(b), if~~ EXCEPT AS PROVIDED IN SUBSECTION (2)(B), IF AN insurance company has direct repair programs with automobile BODY repair businesses or locations that allow insured persons to take their motor vehicles to the automobile repair businesses or locations without the involvement of adjusters, the insurance company may not limit the number of automobile BODY repair businesses or locations with whom it maintains direct repair programs.

~~(b) An insurance company may limit the number of automobile repair businesses or locations if the businesses or locations fail to meet the criteria established in subsection (2)(c).~~

(B) AN INSURANCE COMPANY MAY LIMIT THE NUMBER OF AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS

1 PARTICIPATING IN THE INSURANCE COMPANY'S DIRECT REPAIR PROGRAM TO THOSE AUTOMOBILE BODY REPAIR
2 BUSINESSES OR LOCATIONS THAT COMPLY WITH THE PROVISIONS OF SUBSECTION (2)(C). AN INSURANCE COMPANY IS
3 NOT REQUIRED TO ESTABLISH A DIRECT REPAIR PROGRAM IN A PARTICULAR MARKET AREA IN WHICH THE INSURANCE
4 COMPANY'S NUMBER OF POLICYHOLDERS DOES NOT SUPPORT ESTABLISHING A DIRECT REPAIR PROGRAM WITH ANY
5 AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION.

6 ~~(e)(B)~~(C) Upon request, the insurance company shall provide, WITHOUT PREJUDICE OR BIAS, the insured
7 person with an alphabetical A list that includes all automobile BODY repair businesses or locations that are
8 REASONABLY CLOSE OR CONVENIENT TO THE INSURED PERSON AND willing to provide services and that meet the
9 following objective criteria because INSURANCE COMPANY'S CRITERIA REGARDING WHETHER the AUTOMOBILE BODY
10 REPAIR business or location:

11 (i) possesses the equipment reasonably necessary to undertake repairs;

12 (ii) undertakes reasonable training of management and technical personnel with respect to repair
13 information and the claims process;

14 (iii) agrees to perform quality repairs AT THE PREVAILING COMPETITIVE MARKET PRICE AND and utilize parts
15 that serve to return the motor vehicle to its preloss condition THAT MEET REASONABLE INDUSTRY REPAIR STANDARDS;

16 (iv) agrees to warrant the quality of work, including refinishing, in writing to the insured person, for a
17 period of not less than 1 year from the date of repair; and

18 (V) AGREES TO INSPECTION OF ITS REPAIRS AND SERVICES BY THE INSURANCE COMPANY AND AGREES THAT THE
19 INSURANCE COMPANY MAY TERMINATE THE DIRECT REPAIR PROGRAM WITH THE AUTOMOBILE BODY REPAIR BUSINESS OR
20 LOCATION IF THE REPAIRS AND SERVICES ARE BELOW THE STANDARDS OF QUALITY REQUIRED BY THE INSURANCE
21 COMPANY; AND

22 ~~(v)~~(vi) if requested, agrees to execute an agreement with the insurance company that may contain
23 additional objective criteria that are not designed to unfairly limit the number of automobile BODY repair
24 businesses or locations with whom the insurance company maintains direct repair programs. THE ADDITIONAL
25 CRITERIA MAY INCLUDE CRITERIA DETERMINED TO BE NECESSARY BY THE INSURANCE COMPANY AND DESIGNED TO ENSURE
26 THAT THE AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION HAS THE NECESSARY ESTIMATING SYSTEMS AND PROGRAMS
27 AND EQUIPMENT TO COMMUNICATE ELECTRONICALLY WITH THE INSURANCE COMPANY AND THAT THE AUTOMOBILE BODY
28 REPAIR BUSINESS OR LOCATION HAS TAKEN STEPS TO ENSURE THE PRIVACY OF THE INSURANCE COMPANY AND THE
29 INSURED PERSON.

30 (D) IF THE INSURED PERSON REQUESTS THE LIST PROVIDED FOR IN SUBSECTION (2)(C), THE INSURANCE

1 COMPANY SHALL INFORM THE INSURED PERSON THAT THE INSURED PERSON MAY USE AN AUTOMOBILE BODY REPAIR
2 BUSINESS OR LOCATION AT THE SOLE DISCRETION OF THE INSURED PERSON.

3 (3) FOR THE PURPOSES OF THIS SECTION, AN INCENTIVE OR INDUCEMENT DOES NOT INCLUDE:

4 (A) PROVIDING AN INSURED PERSON WITH THE LIST PROVIDED FOR IN SUBSECTION (2)(C); OR

5 (B) REFERRING TO A WARRANTY ISSUED BY AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION.

6 ~~(2) For the purposes of this section, an incentive or inducement does not include:~~

7 ~~—— (a) providing an insured person or a customer with a list of all established automobile repair businesses~~
8 ~~or locations reasonably close to the insured person or customer that offer a warranty for the automobile repair~~
9 ~~services provided by the businesses or locations;~~

10 ~~—— (b) providing an insured person or a customer with a list of particular body shops meeting reasonable~~
11 ~~standards of quality, service, and safety when the list is requested by the insured person or customer; or~~

12 ~~—— (c) referring to a warranty issued by an automobile repair business or location.~~

13 ~~(3)(4)~~ The insured may use a an automobile BODY repair business or location at the insured's sole
14 discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body
15 BODY repair services for covered damages, less any deductible under the terms of the policy. This section does
16 not require an insurer to pay more for automobile body BODY repair services than the lowest prevailing market
17 price, as defined in 33-18-222.

18 ~~(4) If the insured person uses an automobile repair business or location not on a list provided under~~
19 ~~subsection (2)(a) or (2)(b), the insurance company may not be held liable for any repair work performed by the~~
20 ~~automobile repair business or location that the insured person chooses to use.~~

21 (5) IF THE INSURED PERSON USES AN AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION THAT IS NOT ON A LIST
22 PROVIDED FOR IN SUBSECTION (2)(C), THE INSURANCE COMPANY MAY NOT BE HELD LIABLE FOR ANY REPAIR WORK
23 PERFORMED BY THE AUTOMOBILE BODY REPAIR BUSINESS OR LOCATION CHOSEN BY THE INSURED PERSON.

24 ~~(5)(4)(6)~~ It is unlawful for an automobile BODY repair business or location to charge or agree to charge
25 an insured customer more than an uninsured customer for any automobile BODY repair service.

26 ~~(6)(5)(7)~~ An insurance company that contracts with an independent adjuster may not be held liable for
27 the independent adjuster's failure to comply with the terms of this section.

28 ~~(7)(6)(8)~~ For purposes of this section, "automobile BODY repair business or location" does not include
29 a business or location that exclusively provides automobile glass replacement, glass repair services, or glass
30 products."

Section 2. Section 33-18-1006, MCA, is amended to read:

"**33-18-1006. Desist orders for prohibited practices.** Violations of 33-18-221 through ~~33-18-223~~ 33-18-224 are subject to cease and desist orders of the commissioner issued under 33-18-1004."

- END -

55



AN ACT PROVIDING THAT INSURANCE COMPANIES THAT HAVE DIRECT REPAIR PROGRAMS WITH AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS MAY NOT LIMIT THE NUMBER OF AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS WITH WHOM THEY HAVE DIRECT REPAIR PROGRAMS AS LONG AS THE AUTOMOBILE BODY REPAIR BUSINESSES OR LOCATIONS MEET CERTAIN CRITERIA; PROVIDING THAT A VIOLATION IS SUBJECT TO CEASE AND DESIST ORDERS OF THE COMMISSIONER OF INSURANCE; AND AMENDING SECTIONS 33-18-224 AND 33-18-1006, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile ~~body~~ body repair ~~shops~~ businesses prohibited.

(1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular automobile body repair business or location; or

(b) engage in any act or practice that intimidates, coerces, or threatens an insured person or that provides an incentive or inducement for an insured person to use a particular automobile body repair business or location.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the insured person with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the insured person and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;
(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the prevailing competitive market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the insured person, for a period of not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the insured person.

(d) If the insured person requests the list provided for in subsection (2)(c), the insurance company shall inform the insured person that the insured person may use an automobile body repair business or location at the sole discretion of the insured person.

(3) For the purposes of this section, an incentive or inducement does not include:

- (a) providing an insured person with the list provided for in subsection (2)(c); or
- (b) referring to a warranty issued by an automobile body repair business or location.

(2) For the purposes of this section, an incentive or inducement does not include:

- (a) providing an insured person or a customer with a list of all established automobile repair businesses

or locations reasonably close to the insured person or customer that offer a warranty for the automobile repair services provided by the businesses or locations;

~~— (b) providing an insured person or a customer with a list of particular body shops meeting reasonable standards of quality, service, and safety when the list is requested by the insured person or customer; or~~

~~— (c) referring to a warranty issued by an automobile repair business or location.~~

~~(3)~~(4) The insured may use a an automobile body repair business or location at the insured's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body body repair services than the lowest prevailing market price, as defined in 33-18-222.

~~(4) If the insured person uses an automobile repair business or location not on a list provided under subsection (2)(a) or (2)(b), the insurance company may not be held liable for any repair work performed by the automobile repair business or location that the insured person chooses to use.~~

(5) If the insured person uses an automobile body repair business or location that is not on a list provided in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the insured person.

~~(5)~~(6) It is unlawful for an automobile body repair business or location to charge or agree to charge an insured customer more than an uninsured customer for any automobile body repair service.

~~(6)~~(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

~~(7)~~(8) For purposes of this section, "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products."

Section 2. Section 33-18-1006, MCA, is amended to read:

"33-18-1006. Desist orders for prohibited practices. Violations of 33-18-221 through 33-18-223 33-18-224 are subject to cease and desist orders of the commissioner issued under 33-18-1004."

- END -